

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE COMMISSIONER OF COMMERCE

In the Matter of Complete Construction,  
Inc., a Minnesota Corporation

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge George A. Beck commencing at 1:30 p.m. on March 6, 2001, at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401-2138.

David M. Aafedt, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Minnesota Department of Commerce ("Department"). Respondent did not appear at the prehearing conference. The record closed on March 6, 2001, upon Respondent's default.

**NOTICE**

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the Commissioner's decision shall not be made until this Report has been made available to the parties to the proceeding for at least ten (10) days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact James C. Bernstein, Commissioner of Commerce, 133 East 7<sup>th</sup> Street, St. Paul, MN 55101, telephone (651) 296-2594 to ascertain the procedure for filing exceptions or presenting argument to the Commissioner.

**STATEMENT OF ISSUE**

The issue in this case is whether or not disciplinary action should be taken against the Respondent in accordance with Minn. Stat. § 45.027, subd. 11, or whether Respondent should be censured or whether civil penalties should be imposed under Minn. Stat. § 45.027, subd. 6 and 7 and Minn. Stat. § 326.91, subd. 1.

Based upon all of the files, records and proceedings herein, the Administrative Law Judge makes the following:

## **FINDINGS OF FACT**

1. On January 18, 2001 a Notice of and Order for Hearing and Notice of Prehearing Conference in the above-referenced matter were served on Respondent via certified and first class U.S. Mail to the following address: Complete Construction, Inc., P.O. Box 8143, Rochester, MN 55903.

2. The Notice of and Order for Hearing and Notice of Prehearing Conference served on Respondent contained the following boldface statement:

**If Respondent fails to attend or otherwise appear at any prehearing conference, settlement conference, or hearing in this matter, without the prior consent of the judge, or fails to comply with any interlocutory order of the judge after having been served with a copy of this Order, Respondent shall be deemed in default and the allegations or issues set forth herein may be deemed proved, and Respondent may be censured and/or a civil penalty may be imposed against Respondent without further proceedings.**

3. Respondent did not appear at the March 6, 2001 prehearing conference, made no prehearing request for continuance, nor did he file a Notice of Appearance.

4. The allegations of the Notice of and Order for Hearing and Notice of Prehearing Conference are deemed proved and incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

## **CONCLUSIONS**

1. The Minnesota Commissioner of Commerce and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. §§ 45.027, 326.91 and 14.50.

2. Respondent was given timely and proper notice of the hearing in this matter.

3. The Department has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. R. 2891.0010, a licensee must notify the Commissioner in writing of any change in location within fifteen (15) business days of the change.

5. Under Minn. R. 1400.6000, Respondent is in default as a result of his failure to appear at the scheduled prehearing conference.

6. Under Minn. R. 1400.6000, the allegations and the issues set out in the Notice of and Order for Hearing and Notice of Prehearing Conference may be taken as true or deemed proved when a party defaults.

7. Based upon the facts set out in the Notice of and Order for Hearing and Notice of Prehearing Conference, Respondent has violated Minn. Stat. §§ 45.027, subd. 1(a), 326.91, subd. 1(4) and 326.875.

8. An order is in the public interest.

Based upon the foregoing Findings of Fact and Conclusions, the Administrative Law Judge makes the following:

#### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED: that disciplinary action be taken against Respondent and that the Commissioner consider civil penalties.

Dated this 8<sup>th</sup> day of March, 2001.

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GEORGE A. BECK  
Administrative Law Judge

Reported: Default.

#### **NOTICE**

Under Minn. Stat. § 14.62, subd. 1, the Department is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.